

SMOKING AND HEALTH IN THE USA AND CANADA
REPORT NO. 1, 1991

I. USA

1. INDUSTRY

The U.S. Tobacco Industry closed the 1990 calendar year with a record trade surplus of \$5.8 b. Tobacco product exports were \$5.04 b less \$93 million imports and unmanufactured leaf exports were \$1.44 b less \$580 million imports. This represents 35 percent of the nation's overall agricultural trade surplus. Tobacco products and unmanufactured are now second only to grains and feed, which are the leading contributor to the agricultural trade balance (\$13.221 b).

U.S. tobacco production totaled more than 2 billion pounds in 1981, dropped to \$1.16 b in 1986 and was up to 1.6 b in 1990 (all types). Cigarette production was highest in 1981 at 736.5 b units but this slowly decreased up to 1989. In 1990 estimated production increased to 700 b. Exports have jumped from 64 b in 1986 to 160 b in 1990. This is reflected in the lowered trade barriers in Japan, Taiwan and South Korea, rising incomes in the importing countries, and the weakening of the U.S. dollar.

Cigarette consumption has declined 18 percent since 1981 due to rising prices and taxes, slipping social acceptance, health concerns and restrictions on where people can smoke. It is estimated that consumption fell 2.5 percent in 1990 and will continue annually at that level during the 1990's. During the past few years, cigarette exports have compensated for domestic losses but this certainly cannot occur over time. Americans spent \$44 b in tobacco products in 1990, double the figure in 1980, or 1.1 percent of U.S. disposable income. That share has remained constant for more than a decade. In relation to tobacco product consumption cigarettes represent 95 percent. Snuff is the only product showing gains from 1983 to 1990.

Grise (USDA) projects cigarette consumption at about 350-400 billion at year 2000. Cigarette exports could be 250 b or a total production of 600 b. With these estimates, leaf production could be around 1.4 b pounds. Price will be the major factor in ten years time. As the shift to generic and value priced cigarettes increase, manufacturers will be under increased pressure to lower leaf costs to hold the line on profits.

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1990 Reports

P.M. reported consolidated operating revenues for year ending December 31 up 16.1 percent to \$51.2 b and net earnings of 20.2 percent to \$3.5 b. P.M. USA cigarette volume rose by 1 billion to 220.5 billion or 42.3 percent of market share. They also experienced a 15.5 percent gain in exports of cigarettes abroad, at 368 billion units (60 percent of total industry volume). As a result, they are expanding their Cabarrus, NC plant from 85 to 125 billion units by 1994 (WSJ, February 1 (S)). Marlboro had 26 percent of market share in 1990 in the USA and was the world's best selling cigarette in the 1980's or 6 percent of world consumption.

P.M. shares have almost doubled in value within the past year. They are considered an excellent buy despite the fact that Fortune February 11 (S) rated the company No. 79, down from No. 2 in 1989. This is actually due to its categorization as a food company (50 percent of sales). Regrettably, the judges do not think much of tobacco either. In this regard, Hamish Maxwell will retire September 1, and will be replaced by Michael Miles, President of Kraft (N.Y. Times, March 28). Will its image and management change? (WSJ, March 26).

RJR Nabisco reported a 63 percent reduction in its net loss for the year 1990, from \$1.5 b in 1989 to \$429 m. Business unit contribution of \$3.43 b was up 31 percent, while operating income of \$2.82 b was up 37 percent, and net sales of \$13.88 b were up 8 percent. Total debt after two years is \$17.9 b. Its key to survival lies in tobacco, which provides 73 percent of its operating profit (1988 63 percent) and this dependence is expected to increase in the years ahead. Profit margins on domestic tobacco have risen by 31 percent, overseas 17 percent, food margins are down by 22 percent (WSJ, February 13 (S)).

Emphasis is being placed further on tobacco. Market share pre-buy-out was 31.8 percent, it is now 29.6 percent (Maxwell). Combined market share of "Winston" and "Salem" dropped to 14.9 percent in 1990 from 18 percent in 1988. This is a key loss, particularly with consumption dropping 2.5 percent per annum. In 1990, RJR spent \$30 m on better tobacco blends for Winston, together with improved packaging. Emphasis has been placed on "Winston" and "Camel" (Business Week, December 24, 1990 (S)). Research on "Premier" is apparently out. They want to convert "Marlboro" smokers to RJR brands (USA Today, March 5 (S)).

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There has been a lot written on RJR during the last few months. They sold shares in December, which doubled in price by March and a further sale is anticipated, principally to reduce debt. Massive cost cutting, layoff of 2,300 employees, replacement of top management, and sales of operations, has encouraged Investors Service ratings and optimism.

-Reynolds slated for new public exposure R. Burry Tobacco International, February 1, 1991.

-Profile R.J. Reynolds Tobacco Company, D.E. Doolittle, Tobacco Reporter, February, 1991.

-Ibid: the right formula, D.E. Doolittle, Tobacco Reporter, January 1991.

American Brands reported record revenues (up 23) and operating income (up 5%) for 1990. Gallaher represented 58% of consolidated cigarette units sales. A privately held company, Republic, reports that their R.Y.O. "Top" sales have increase 40% in their first three years of operation. "Top" and B & W "Bugler" are the two R.Y.O.'s of note in the USA (Tobacco International, January 15).

U.S. Tobacco net earnings rose in 1990 from \$190.5 m to \$223.3 m, a 17% increase. This marked the 30th consecutive year of net earnings growth for the company. Moist smokeless tobacco product sales were up 5.2% over 1989. It is considered a strong stock buy. On the other hand, Universal Leaf has done extremely poorly in its diversification programs and is going through a difficult period of readjustment (Forbes, April 1, (S)).

1990 New Brand Activity (Special Report 91.01, TNA, March 15 (S))

Twenty six Cigarette Brand families are listed and 71 line extensions of these brands. Of these introductions 12 cigarette brand families and 43 line extensions were in the price value sector (generic, subgeneric, low price, extra low price), now 19% of total sales.

When compared with 1989 cigarette brand families, introductions were up from 22 to 26, but line extension introductions were down from 81 to 71. In the price value sector, cigarette brand family introductions rose from 11 to 12 and line extensions were up 42 to 43.

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RJR went national with a new image of "Sterling" at a lower price in October and "Camel Ultra Lights" in December. PM continued to increase their market share of price value brands, particularly with their introduction of "Bucks". B&W have emphasized price-value cigarettes (36% of their annual sales volume), since they consider that the consumers want a value product. They had a new introduction, "Raleigh Extra". American added sub-generic "Misty Slims" and "Montclair" to their price value "Malibu". Lorillard entered the price value arena with "Heritage" and is test marketing "Old Gold Filter". Liggett's "Pyramid" still continued to gain. They went national with "Eve Ultra Light".

In May 1991, American intends to go national with price value "Bull Durham" targeting Marlboro with advertising of cowboys roping bulls (AdAge, March 13). RJR is test marketing value priced "Dakota" with a new slide box package design that opens like a deck of cards. CA Blockers are quitting the sale of N. Elocin cigarettes, because of inadequate funding to gain FDA approval.

PM B&W De-nic", "Merit De-nic" and "Next De-nic" are still in test markets.

Advertising

With anti-smoking crusades going full blast, advertising receives its full share of criticism too, notably sports events e.g. baseball, car racing, golf, tennis (Orlando Sentinel, February 17 (S)) (N.Y. Observer, March 4 (S)). Dr. Alan Blum, a noted medical antagonist, surveyed the appearance of Marlboro and Winston cars at nationally televised car and motorcycle races. Exposure of the Marlboro name at the 1989 Marlboro Grand Prix Telecast was 5933 times. Yet the Public Health Cigarette Smoking Act of 1969 prohibits the promotion of cigarette brands on television (NEJM, March 28, (S)). P.M. denied allegations that it skirts a ban on television (WDT, March 28 (S)).

The industry has formally eliminated paid product advertisements in movies (Washington Times, December 20 (S)). The current Outdoor Advertising Association of America policy is to restrict posting of tobacco and alcohol ads near primary or secondary schools, hospitals and places of worship (JNCI, November 21, 1990).

During the Gulf War the question arose, when are patriotic ads opportunistic? (WSJ, January 30). Lorillard added diagonal yellow stripes to print and

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outdoor ads for its "Kent, Newport, and True" Cigarettes (USA Today, February 21 (S)). Other products used different themes. There was an interesting article in the Sacramento Bee, November 6, 1990, outlining the wording of tobacco ad language in the past. In today's environment focus is being placed more and more on visuals that are more beautiful to look at, people and shapes, package design and so on. Yet P.M. was ridiculed for its "Bill of Rights" campaign, amongst many other products at an awards function, sponsored by the Center for Science in the Public Invest (Investor's Daily, December 11, 1990).

An article in WSJ March 28 (S), quotes a magazine ad's headline promising a breakthrough in B&W De-Nic cigarettes having removed most of the nicotine. A further ad boasts that B&W has unlocked the secret to denicotined tobacco. P.M. insists that it is not making any health claims, despite any health group claims to the contrary. They are saying that some smokers prefer de-nicotined tobacco, like decaffeinated coffee. Perhaps this is a gentle run-up to placing such cigarettes on the market. However, the Coalition on Smoking and Health are very much against these cigarettes (N&O, April 8 (S)).

Cigarette Exports

Press articles continue to review the increasing rate of exports, notably to Asia -

-Exports fire up tobacco industry, Washington Post, December 16 (S)

-U.S. cigarette producers ignite anti-smoking crusade in Thailand, Christian Science Monitor, January 4

-Tobacco Firms Eye Rest of Globe as U.S. anti-smoking bias grows, Investor's Daily, January 21 (S).

-Asia - a new front in the war on smoking, Business Week, February 25 (S)

Once again the medical fraternity have discussed the influence of the U.S. tobacco industry on the health, economy and environment of developing countries (NEJM, March 28 (S)). It cites the ethical irresponsibility of the U.S. to continue to permit unrestricted marketing and sale of such a product to a vulnerable population abroad. In its final paragraph, it strongly encourages divestiture of tobacco investments.

Whilst the GATT trade talks, now reopened, have little effect on tobacco, their rulings help open trade

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doors. It would appear that Thailand will now open its market to U.S. cigarette imports (Tobacco Reporter, January 1991).

At the Tobacco Workers Conference in January, T.C. Slane (TMA) gave an excellent review of cigarette trade liberalization in Asia 1986-1989, indicating how U.S. growers of flue-cured and burley tobacco will benefit. Equally, Dan Stevens (USDA Foreign Agricultural Service) reviewed predictions for the future sale of leaf tobacco and products to Eastern Europe. Of particular importance he noted Poland, Bulgaria and Yugoslavia and maybe cigarettes for Hungary and Czechoslovakia. There was a large deficit of leaf tobacco in that area in 1989. Joint ventures were also discussed.

Cigars

The Cigar Association of America reports that cigar sales were \$675 m in 1989 up from 1988, though volume was down (U.S. Distribution Journal, January 1991 (3)). Sales categories were large cigars 74%, Cigarillos 17%, and little 9%. Overall cigar consumption continues downward mainly due to legislation and social pressures. Annual cigar consumption in the U.S. is 2.463 b in 1989 (1975 5753 b, 1980 3.952 b) and per capita consumption is 10 in 1989. Cigar taxes increased 25% in 1991, with a further 25% increase due in 1993.

2. TOBACCO PROGRAMME

World tobacco production in 1990 is estimated at 15.6 b pounds (farm sales weight), down 1% over 1989. Total U.S. tobacco leaf exports have stayed fairly constant over the past few years. Though cigarette consumption in the U.S. domestic and some developed countries, e.g. EEC is decreasing, the outlook for U.S. leaf production for the next few years looks promising since it is used in the increasing cigarette export market. Even prospects for increased cigarettes sales in Russia and East Europe will help too. A good review of world leaf tobacco supply and demand is contained in Tobacco Reporter, January 1991.

As stated in S&H Report No. 4, 1990, the basic quota in 1991 for flue-cured tobacco will be 377.7 million pounds (same as 1990). With under marketings of 14 million pounds, the effective quota will be 392 million pounds (down 44 m pounds from 1989). The support price will be \$1,528 per pound and the average 1991 purchase price is estimated at \$1.75 per pound. The 4.7% drop in effective quota could lead to a sellers market. This has occurred with burley tobacco because of low production of quota by farmers (75% in 1990).

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This has resulted in poor grading, notably mixing of plant positions. Poorer grading could equally result with flue-cured. Regrettably also, P.M. underestimated their leaf requirements (50 million pounds) and though a request was made after the quota announcement, the Secretary of Agriculture turned it down. This means that the effective quota will be hard pressed to meet 1991 demands and shortages may occur. It should ensure a major increase in 1992, however.

Charles Harvey, Executive Vice-President of Tobacco Growers Association of North Carolina, recently gave an excellent talk on the future cultivation of flue-cured tobacco in North Carolina. He estimated that the number of growers would be down to 3,000 in five years time, averaging perhaps 80-100 acres each. They will adapt quicker to research and extension findings and higher agronomic standards should result. Due to shortages of labor, crop diversification and increased mechanized harvesting will ensue. He considered that the weak link lies in today's small marketing parcel (275 pounds). With bulk curing barns and boxes, he asked the question, what about barn lots as a marketing parcel on the warehouse floor? This would also reduce handling costs, and degradation. The delivery and marketing system is poor and needs major revamping. He felt that NCSU should not be concerned so much with reducing costs/savings, but rather emphasizing greater profits to ensure that grower investment costs can be paid back. He outlined agronomy research priorities. The industry needs to continue inputting their ideas.

Sales from the F.C. Stabilization stocks have continued to be brisk in the first three months of 1991. Though they received 74.1 million pounds or 7.32% of the 1990 crop, their uncommitted inventory (1985-1990) is now below 100 million pounds. Company purchases of the committed purchases (1976-1984) are well ahead of schedule. While they estimate an intake of 30 m \pm 5 m pounds in 1991, assuming an average crop, this figure could be much less. The winter has been mild throughout the Southeast USA and the spring weather excellent to date. The portents at this time are therefore good.

Representative Rose (D. NC), Chairman of the House Sub-Committee on Peanuts and Tobacco, held further hearings on March 14 with regard to "after sales service payments" to Iraq relating to tobacco exported there under USDA guaranteed programs GSM/102/103 (N2O, March 14/15 (S)). Six leaf dealers have admitted guilt to making false statements, regarding the export programs in federal court in Raleigh, North Carolina and were fined. His extreme antipathy to the domestic

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manufacturers and leaf dealers has led an attempt to further uncover the extent of the "extortion and corruption" of these deals. More information will be uncovered, particularly the dealings of an Italian-owned bank in Atlanta. The full effects of this investigation have yet to be concluded and actions taken e.g. disbarment and suspension of the leaf dealers from participation in USDA support programs.

What was perhaps more damaging to the leaf side of the industry (indirectly encouraging the anti-tobacco group) was his tirade at the annual meeting on March 20 of Tobacco Associates, a grower export production organization (Annual Report (S)). Not only did he open up the problem above, but he also harangued Dibrell Brothers on supply of tobacco in 1989 to the Turkish Monopoly (Tekel) bringing display evidence to the meeting to prove his point (settlement Dibrell/Tekel has already occurred). Since T.A. are working closely with Tekel, they were obviously the informants of the infraction. I understand that Dibrell have considered (maybe still are) taking out a suit against Rose as a result of this.

Rose went on to accuse the Bush and Reagan administrations of secretly aiding Iraq through a little known agricultural export program!! The tobacco industry is divided very badly into two groups: Rose, the Farm Bureau, Tobacco Associates; and Helms (R. N.C.) Tobacco Growers of N.C., the manufacturers and leaf dealers; highly political. I have never attended a worse meeting. It does not bode well for future cooperation, so desperately needed at this juncture. Rose thinks that he is helping his grower constituents in North Carolina, but a lot of them have other thoughts.

The Tobacco Merchants Association are celebrating 75 years of operation at their annual meeting in Atlanta on May 22/23 with a title "Internal Industry Support: Strengthening our Coalition." One has to wonder about the word "Coalition"!!

Clayton Yeutter resigned as Secretary of Agriculture to take up the Chairmanship of the Republican National committee. He was an ardent promoter of free trade and agriculture in particular. He was a great supporter of tobacco. His successor is Edward Madigan from Illinois, who seems to be well liked and equally interested in trade (Washington Times, March 8).

There was an excellent review on "Biotechnology and the American Agricultural Industry in JAMA, March 20 (S). The report provides an overview of the inherent risks and benefits of "agro-genetics" and how the medical community should react.

3. LEGISLATION

A. Federal

21 Bills of major tobacco industry interest have already been submitted (11 House, 10 Senate) in the 102nd Congress. A further 10 are considered on the periphery. Action has been slow in the first quarter, presumably as a result of the Gulf War

(a) Taxes - There are a number of bills to increase taxes (HR 892 Jacobs, S558 Bradley to 32c per pack). Many increases are earmarked for specific purposes e.g. Stark HR 698 for Medicaid, HR 699 for Medicare. Pease HR 1255 for health insurance, Lautenberg S560/561 primarily to limit minors access to tobacco.

It is doubtful if any of these will pass because of the 4c increase in 1991 and 4c in 1993.

Neal (D. W.C.) HRes 13 has petitioned the House of Representatives to oppose higher Federal Excise Tax.

Stark HR 632 has proposed an annual \$500.00 tax on each cigarette vending machine. New revenue would fund anti-tobacco programs.

Weiss (HR 440) and Bradley (S557) have submitted bills to disallow tax deductability of advertising expenses by companies. Such bills were submitted in the 101st Congress.

(b) Advertising

This is the principal TI priority in the 102nd Congress. It is understood that the Representative Waxman and Senator Kennedy bills have been modified to overcome original inconsistencies. The issuance of the Kennedy bill is pending but the Waxman bill will not appear until later in the year. Nothing has been heard from Synar.

The Advertising Associations are particularly worried over legislation to restrict advertising in a range of products. Restriction on transportation could lead to outdoor advertising, then print. One thing is going to trigger something else (Washington Times, March 6). Environmental claims on packaging will be receiving more federal attention. (AdAge, March 18 (S)).

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The American Advertising Federation have urged the F.T.C. to issue a national standard on how to make recycling and biodegradable claims to avoid deception. They want to have one standard, so that States do not come up with inconsistencies.

The Tobacco Institute launched major advertising and education programs "It's the Law" to stop individuals under 18 from smoking. It supports a legal smoking age of 18 (Washington Post, December 12 (S)). In part, this is intended to undercut the Waxman and Kennedy bills. There has been a tremendous dialogue on TV and in the press pro and con this action. The motives of the industry have been questioned. The Chicago Tribune, (December 26) states that the industry is behaving in a way that warrants praise, not condemnation.

The advertisements appear in such magazines at Time (S), Newsweek, People and the like.

The American Advertising Federation strongly support the T.I. action.

(c) Fire Safe Cigarettes

Under two auspices of HR 293 a Technical Advisory Group has been established (composition Appendix 1). This supersedes the former Technical Study Group (TSG) though the membership is very similar, with Richard Gann again as Chairman. It aims to develop a test method of ignition propensity, together with a Fire Incident Study. There have been two meetings of the group already, February 1st and March 21st. The Justice Department has agreed to a joint venture on research by the domestic manufacturers (Federal Register, February 4). The group did not really start until December/January 1990/91, so it is probable that its work will not be completed until January 1994 (see page 20).

(d) Product Liability

Kasten has introduced S 640 similar to his previous one in the 101st Congress. No mention is made about tobacco.

(e) Indoor Air Quality Act of 1991

Mitchell has introduced S455 and Representative Kennedy HR 1066 and these are similar to those not passed in the 101st Congress. Kennedy has

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emphasized ETS as a contaminant, being one of two "most harmful" chemicals.

(f) Miscellaneous

Bradley has introduced S 556 to add a label or addiction for smoking and smokeless products. His S 555 expands alcohol and drug abuse educational programs to include tobacco.

The Congressional Task Force on Tobacco and Health now includes 53 members and is undoubtedly a strong group to counteract.

B. State

(a) Taxes

The T.I. have updated the State Cigarette Excise Tax Rates as of January 1, 1991 (S). The average State Tax is 24.7 cents per pack and the overall total tax (including Federal and Local Taxes) is 53.7 c in 1990. The average price per pack was \$1.52, which would give a 35.38 tax level in 1990.

The States continue to have serious budget problems. Possible increases in cigarette and other tobacco product excise taxes inevitably are considered (N.Y. Times, March 25). Increases in Arkansas (21 to 22 c per pack) and Utah (23-26.5 c) will occur July 1, 1991. Maryland may include cigarettes in a retail sales tax increase. Minnesota, Vermont may increase, whereas New Hampshire may decrease (problems with bootlegging). As I have stated before, taxing cigarettes is perhaps reaching a point of diminishing returns, witness Orange County in California down 7.8% on revenues of \$5.6 m 1988/89 to 1989/90.

Even North Carolina is considering an increase of its cigarette tax. The Raleigh News and Observer, (February 4 (S)) supports this. But it is very unlikely to occur because of the ripple effect throughout the USA. The Governor is against it (Greensboro News and Record, March 19).

(b) Smoking Restrictions

T.I. produced a January 1991 State Smoking Restriction Laws review (S).

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There seems to be more emphasis being placed on banning smoking in public places rather than restricting it. Thus, the White House proposed an executive order that would ban smoking in all federal buildings (Philadelphia Inquirer, March 6). All 13 H.C. Congressional members asked the President to reject this proposal (N&O, March 7(S)). The T.I. brought their guns to bear. The proposal has been returned to the White House for re-review and it is most unlikely to be enacted. On the other hand the EPA have banned smoking inside their offices and facilities (Washington Post, December 28th).

A ballot to throw out 1989 anti-smoking ordinance in Greensboro was not upheld (N&O, February 26). Smoking will be banned in elevators and large retail stores, and large restaurants are required to allow 25 percent of seats for non-smokers. Other cities and counties in North Carolina are considering restrictions e.g. Wake County (Raleigh) and Wilmington (N&O, March 5 (S)).

Smoking was banned in interstate buses in the USA by the Interstate Commerce Commission to take effect in 1991. Smoking will be allowed at the bus stations and on charter or tour buses, as requested (N&O, December 19, 1990 (S1)).

Problems continue to mount over smoking at airports (USA Today, February 18 (S)). The State of California restricts smoking and Hawaii bans it. No other state has yet passed such ordinances. A few cities have restricted smoking e.g. New York City, Denver, Albuquerque

A smoking ban has been placed on almost all buildings at the University of Wisconsin (N.Y Times, January 27) and at the University of Pittsburgh (Pittsburgh Post Gazette, January 30). West Virginia University have smoke-free buildings already.

A Time Questionnaire (February 1 (S)) asked the following question:

Anti-smoking ordinances have been criticized by some as an infringement on the rights and privacy of those who choose to smoke. Others applaud these measures. Please choose the statement below that best expressed your concern.

The anti-smoking crusade has gone too far 22%

More regulation needed to protect non-smokers 40%

Current anti-smoking regulations are
satisfactory

38%

Three jails in the Washington, DC are now
ban smoking!! (Washington Post, January 16 (S)).
Many other jails do the same.

(c) Advertising Bans and Restrictions

The T.I. produced a special report on "State
and Local Laws and Legislation Banning or
Restricting Promotion of Tobacco Products" (S).
Utah is the only state that has instituted a
statewide ban on tobacco product advertising.
The T.I. are fighting implementation in all other
states.

The idea of placing a sales tax (3-4%) on
advertising costs is being discussed in some detail
in Rhode Island, Nevada, Massachusetts, Arizona,
Florida and Texas (AdAge, March 11).

(d) Vending Machine Sales

The T.I. issued a Special Report on "State
and Local Tobacco Vending Machine Sales
Restrictions" (S). Some states have responded
to a request by Secretary Sullivan H.H.S. to ban
cigarette sales from such machines.

(e) Discriminatory Employment

The T.I. issued a Special Report on "State
and Local Anti-discrimination and Discriminatory
Employment Proposals" on December 31, 1990 (S).
The Governor of New Jersey is particularly in the
news about such a bill (N.Y. Times, March 22),
but it looks as if he will sign a modified bill
to prohibit discrimination in hiring, pay and
working conditions against smokers. In Indiana,
the House overwhelmingly agreed to deny an employer
the power to mandate an employee's lifestyle away
from the workplace (S).

Eight states have enacted anti-discrimination
measures and it is hoped that such action will
continue.

The American Civil Liberties Union has called
for an "Employees Bill of Rights" part of which

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would prohibit employers refusing to hire people, who acknowledge using tobacco in their own homes and terminating current employees who refuse to quit smoking.

(f) Fire Safe Cigarettes

Massachusetts continues to discuss this matter, together with New York and Michigan. It is not progressing, particularly because of the Federal agreement to set up a Technical Advisory Group under the auspices of HR 293.

(g) Packaging - Washington, Hawaii, Massachusetts, New York, New Mexico are considering packaging standards which are environmentally acceptable, together with taxes to reduce litter.

(h) State of California - It has attempted to set a pace on innovations for the rest of the USA, but these appear to be falling down. (Washington Post, March 10). Indeed their five year drought (now mitigated to some degree by large amounts of rain and snow) will affect them far more than all their legal changes!!

Proposition 65, to warn the public of any significant risk from chemicals causing cancer or birth defects has been virtually ignored in other states. Proposition 123 Big Green environment initiative was thrown out decisively in November 1990 and similar initiatives in other states were not passed. Proposition 99 approved in 1988 raised the cigarette sales tax from 10 c to 35 c a pack. It aims at reducing the number of smokers by 75% by 1999. Even this is having opposition, notably by the California Restaurant Association. A Tobacco Education Oversight Committee, supervising the four year \$271 million, anti-smoking program, is concerned that some of this money is funneled to other state health programs (already \$70 m to pre-natal programs). An enormous state budget deficit may change ideas, so it will be interesting to see the results of Proposition 99 (Los Angeles Times, February 5).

4. LITIGATION

Cipollone versus Liggett, P.M., Lorillard - Plaintiff sought review on December 28 by the Supreme Court on the validity of the preemptive clause in the Federal Cigarette Labeling and Advertising Act of 1966. The 3rd Circuit Court of Appeals had challenged the validity of the warning on cigarette packages and the

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propriety of a party's actions with respect to the advertising and promotion of cigarettes and states that the pre-emption did not preempt state tort claims (WSJ, January 8, (S)).

Later, the three tobacco companies involved took an unusual step in actually urging the court to hear the case and resolve the growing conflict between state and federal courts, despite the fact that the financial stakes for the industry are very substantial.

The defendants decision was spurred on by a Texas Court of Appeals judgment on February 8 in Carlisle et al versus P.M. (N.Y. Times, February 9 (S)). This judgment rejected contentions by cigarette companies that they were immune from state court lawsuits seeking damages for injury and death caused by their products. This judgment, like New Jersey, ran counter to the pre-emption clause of the 1966 Act. This decision will affect three other cases, namely Dyer, Rothgeb, and Woods in Texas.

The U.S. Supreme Court agreed on March 25 to hear this appeal (WFO, March 26 (S)). This decision was widely publicized in the press (S). Tobacco stocks went down slightly (WSJ, March 26 (S1)), but rebounded quickly. Briefs will be submitted after the mid-summer recess; arguments will probably be presented in November/December and a judgment made early in 1992. This will probably be the most crucial judgment ever for the industry. In its editorial of March 28, the N.Y. Times, states that "if the high court adheres to its recent precedents, the manufacturers will lose. Warnings like "The Surgeon-General has determined that smoking is dangerous to your health" would become, as Congress probably intended, not a shield from lawsuits but at most a defense at trial". Much of the litigation presently in progress, affected by this issue, will slow down and await the judgment (e.g. Dewey versus B&W).

Horton versus American - Motions were made both by the plaintiff and defendant. The Judge at a hearing on October 22nd was obviously sympathetic to the plaintiff, but both motions were rejected. The case has gone forward on appeal to the Mississippi Supreme court and it is hoped that a judgment will be made later this year.

Gilboy versus American, RJR and Lorillard - This case was accepted on appeal by the Louisiana Supreme Court on January 31st. The trial court had ruled in 1989 that Gilboy's claims were barred by the pre-emptive effect of the 1966 Act and by the plaintiff's deposition testimony concerning his knowledge of cigarette's hazards. It is probable that no action will occur until after the judgment of the U.S. Supreme Court.

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Kotler versus American - On December 9th, the 1st Circuit Court of Appeals absolved American based on the fact that the product liability claims were federally preempted and that Massachusetts law does not recognize the risk/liability doctrine. Despite this, the plaintiff has petitioned the U.S. Supreme Court. They have not decided whether to take the case (April 18th).

Forster versus American, RJR and Lorillard - The Minnesota Court of Appeals agreed on December 12 that the plaintiff is entitled to further discovery with regard to her claim of cigarette design effect and that the case should return to trial court. Despite this decision, the case is apparently not active at this moment.

Lejeune versus American - An original asbestos/tobacco exposure trial. The asbestos defendants settled and the American case alone was supposedly settled in their favor on January 11th. But the judge later denied this. Once this matter is agreed, it will be appealed to the 5th Circuit Court of Appeals.

Ierardi versus Lorillard - The plaintiff asserted that Ierardi's mesothelioma was caused by smoking "Kent" cigarettes in the 1950's. These contained Micronite filters. This case may go to trial later in 1991.

Wilkes versus American - First filed in 1987 - lung cancer and emphysema. An unusual case in which Wilkes was said to be unable to comprehend the warnings on cigarettes, because of brain damage in World War II. Trial set for February 1992.

Grinnell versus American - The plaintiff's lawyer raised the question of pesticides, radioactivity, and additives, based on the Horton case. In the pre-trial hearings, the judge's decision seemed to strengthen American's case. No trial date set.

Miscellaneous - An important case has been set for September 23rd, 1991, with no extensions granted. Mrs. Hamilton and three children have alleged that her husband and father were killed in a fire caused by cigarettes (P.M.). Though there have been 10 cases over the years concerning fires caused by cigarettes, this will be the first to go to trial. It is of particular interest in view of the Fire-Safe cigarette developments.

The Third U.S. Circuit Court of Appeals upheld avoidance of New York Life Insurance paying a claim, when a smoker lied about his smoking habit, even though he died of a non-smoking disease (WSJ, January 17 (S)).

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In a similar case in California, the First District Court of Appeals ruled that Old Line Life Insurance did not have to pay on a life policy of a woman, who had lied that she was a non-smoker and who died of breast cancer in 1986 (WSJ, March 26).

A survey of jury verdicts indicated that, while the number of multi-million dollar verdicts is on the rise, many do not survive the appeals process e.g. B&W versus Brooke Group for unfair marketing practices (WSJ, January 28 (S)).

P.M. have sued Sega Enterprises for alleged unauthorized use of cigarette trademarks in children's video games.

The U.S. Supreme Court upheld a lower court ruling that only the Government, not individuals, may sue to enforce the Foreign Corrupt Practices Act. BAT and PM were therefore exonerated about a case in Venezuela.

5. HEALTH

A. General

The Centers for Disease Control continue to hammer smoking. In a report on 1988, more than 434,000 Americans are said to have died from health problems, associated with smoking. It is the leading cause of preventable deaths. They also included 3,825 deaths from passive smoking (N&O, February 1 (S)). Smoking deaths for men made up 66% of the total, twice the rate for women. Smoking-related deaths for blacks was 12% higher than whites.

The CDC summarized data on cigarette brand use among adult smokers in the U.S. 1986 (JAMA, November 28, 1990 (S)). This was a survey worth review.

H.P. Chase (JAMA, February 1991) found that smoking, Insulin-dependent diabetics (ages 14-21) were 2-3 times more likely to develop kidney damage than non-smokers, due to a three fold increase in albumin.

A strong link between smoking and thin bones in white women (20-39) has been found by R. Mazess of the University of Wisconsin-Madison (USA Today, March 5 (S1)).

Two studies in the American Journal of Epidemiology (January 1991) appeared to raise questions on smoking and damage to sperm, as it relates to the increased

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risk of having brain cancer and leukemia in children
(N&O, January 24 (S)).

The question of quitting smoking coupled with the prospect of putting on weight, especially in women, was reviewed by D. F. Williamson et al in NEJM, March 14 (S). It is stated that it only occurs in a minority of those who stop smoking and weight gain is not likely to negate the health benefits of smoking cessation. Nevertheless, its cosmetic effects may interfere with attempts to quit. Effective methods of weight control are, therefore, needed for smokers trying to quit.

B. CANCER

There was an interesting short review of research on cancer since the passage of the National Cancer Act in 1971, 20 years ago (JNCI, February 6 (S1)). Emphasis has been placed on prevention, with particular reference to the diet and finding chemicals in foods, which will block carcinogenesis.

A.C.S. Cancer Facts and Figures 1991 (USA Today, January 25 (S)) indicates an estimated 1.1 million cases diagnosed this year, an ongoing increase, attributed to an aging population and better detection. About 30% of all cancers are linked to tobacco. Deaths from lung cancer in women exceeded breast cancer in 1987 and are still increasing.

Living with cancer is discussed in the N.Y. Times, (February 4 (S)). The time from diagnosis of cancer to death has lengthened considerably over the last three decades as a result of therapy. Cancer is primarily a disease of age, with a risk 10 times higher over 65 than under. 51% of people diagnosed with cancer in 1981 survived five years and 44% are still living after 10 years. Some cancers can be cured e.g. thyroid, others like liver, cannot be cured at this time. White survival is greater than black, often because their cancer is diagnosed earlier and they have access to medical care.

The goal of the NCI Division of Cancer Prevention and Control is to achieve significant reductions in cancer incidence, mortality and morbidity with a concomitant increase in cancer survival. In its science program, there is a smoking and tobacco control program under Donald Shopland, formulating policy and research, together with liaison with NIH and HHS, and developing intervention initiatives like Commit and Assist to which I have previously referred (Cancer Letter 16 (47), 1990 (S)).

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American Association for Cancer Research May 23-26, 1990 (S). Bruce Ames continued his statements on pesticides and animal cancer studies recommending that studies of natural and synthetic chemicals be re-examined to see how relevant they are to humans (pp 11/12). His arguments to which I have referred previously are somewhat confirmed in a paper by A. F. Subar et al (AJPH, November 1990 (S)) which shows that a high cancer risk associated with smoking is compounded by somewhat lower intake of nutrients and foods, which are thought to be cancer protective.

C. W. Heath, Jr. in a paper, "Cigarette Smoking and Hematopoietic Cancer (JNCI, December 5, 1990 (S)) indicates a possible etiological link between cigarette smoking and leukemia.

C. HEART

The 1991 American Heart Association's "Heart and Stroke Facts" states that deaths from heart disease have dropped more than 20% over the last decade in the USA. However, more than one in four people suffer from heart disease and it accounts for almost half the nation's deaths. This drop can be attributable to better diet, more exercise and proper use of existing drugs for high blood pressure and less smoking. Southern states have a higher risk of heart disease deaths because they eat more fat, more sodium and smoke more cigarettes (USA Today, January 14, N&O January 14 (S)).

The A.H.A. state that they are reviewing a campaign to strengthen federal regulation of the tobacco industry and their top priority for 1991 is to persuade Congress to order the Government to determine whether cigarettes contain harmful additives (Boston Globe, February 13).

Using a simulation model of the U.S. male population to estimate the long-term impact of future smoking cessation programs, A.H.A. Tosteson et al concluded that subject to the assumptions of the model, smoking reductions will markedly reduce coronary heart disease, especially in younger age groups and that this benefit will be slightly offset by a small increase in absolute incidence in elderly men (AJPH, December 1990 (S)).

D. MISCELLANEOUS

A survey of smoking policies in medical schools in the US and Canada showed that formal policies totally banning or markedly restricting smoking in medical schools remain in the minority. This was somewhat surprising, since they could make a definitive health

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January 1991 (S)).

Student illegal drug use among high school seniors dropped to its lowest level since the 1975 annual survey. However, the 1990 results for the legal drugs of tobacco and alcohol, showed that they remained the drugs most often used (Washington Post, January 25 (S1)). On the other hand, more college athletes are chewing tobacco and fewer use illegal drugs (USA Today, February 26).

L. S. Zahn reported on an "International Symposium: Effects of Nicotine on Biological Systems" Hamburg, Germany, June 28-30, 1990. The opening session included Sir P. Froggatt. Data on the protective effective of smoking in Alzheimer's and Parkinson's diseases and ulcerative colitis was discussed.

6. FIRE SAFE CIGARETTES

The principal objective of TAG will be to develop a test method of ignition propensity, either primary using a fabric, or secondary, a non-inflammable material.

- (a) The National Institute of Standards and Technology will develop a secondary test method by use of:

-glass plate, which rests on top of a brass plate (1" thick), placed on top of a hot plate

-a bed of small glass beads, through which air is caused to flow upwards through the beads at different flow levels

They will also try to develop a fabric substitute primary method, but they are not too hopeful of achieving this.

Separately, a Fire Incident Study (Bea Harwood) will collect data on fires, which have been cigarette ignited. Often these are clustered in a city, associated with a specific socio-economic level of people having the fires.

- (b) The domestic tobacco manufacturers have two projects in hand.

(i) Joint venture - developing a primary test method of ignition propensity using a standard fabric placed on top of foam. They are having considerable difficulty in this regard to date.

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